



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

**RENEWED PETITION UNDER
37 C.F.R. §1.47**

ATTORNEY DOCKET NO.
70078.0009USWO
U.S. APPLICATION SERIAL NO. CONFIRMATION NO
10/519,166 **5276**
BASED ON INTERNATIONAL APPLICATION NO.
PCT/FR03/01933

INTERNATIONAL FILING DATE
24 June 2003

INVENTOR(S) Marie-Line ABOU CHACRA-VERNET et al.	EXAMINER Unassigned	GROUP ART UNIT N/A
TITLE OF APPLICATION SOLID PHARMACEUTICAL COMPOSITION CONTAINING A LIOPHILIC ACTIVE PRINCIPLE AND PREPARATION METHOD THEREOF		

Mailstop PCT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Responsive to the Decision on Petition of March 17, 2006, on the above-identified application, reconsideration is respectfully requested in view of the following.

REMARKS

At the outset, Applicants gratefully acknowledge the recognition by the PCT Legal Office that requirements (1) and (4) of 37 C.F.R. 1.47 (a) have been satisfied in Applicants' effort to establish that Dominique Toselli, a named inventor, refuses to execute the Above-identified application.

Requirements (2) and (3) of 37 C.F.R. 1.47 (a) are said not to have been satisfied, however.

37 C.F.R. 1.47 (a)(3) requires that an affirmative, explicit statement be made of the last known address of Dominique Toselli.

Attached as Exhibit A to this Request for Reconsideration is a copy of a letter from Beatrice Ores of Cabinet Ores, dated May 26, 2006, which at page 2 thereof explicitly states that "the last known address [of Dominique Toselli] is the one used in our letter sent to Mr. Toselli, i.e. 21 boulevard Arcole, 31000 Toulouse, France." Further, also attached as Exhibit B is a copy of a print-out from the web site of the French Post clearly indicating that the address noted above is the Past known address of Mr. Toselli.

In view of the above remarks and attachments to this Request, it is believed that 37 C.F.R. 1.47 (a) has been satisfied.

37 C.F.R. 1.47 (a)(2) requires factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort.

In fact, a "complete copy" of the application paper was presented to Mr. Toselli. Page 1 of the letter of Beatrice Ores explains why this is so. Explicitly, she states:

As you know, when preparing the combined Declaration and Power of Attorney for its execution by the inventor, we may attach the specification to this form, or complete the form with the mention of the U.S. serial number and filing date or with the PCT International Application number and filing date. The above case being issued from a PCT International Application, the form has been filled in with the International Application number and filing date but was not accompanied with a complete copy of the specification (what we assume to correspond to the application papers) as this is not necessary. Assignment forms, that he was able to identify the invention concerned, and without a response to are different letters, [we conclude that Mr. Toselli] refused voluntarily to execute the forms [emphasis added].

Thus, it is clear that a "complete copy" of the application was effectively presented to Mr. Toselli for execution. Although it is beyond clear that Mr. Toselli knew the subject matter and content of the present application, he, nevertheless, refused to execute the same. This refusal is, further, highlighted by Mr. Toselli's willingness to execute other U.S. patent application. Hence, his recalcitrance to execute this application is conspicuous.

Hence, it is believed that the requirements of 37 C.F.R. 1.47 (a)(2) have been met. Accordingly, it is urged that the Request for Reconsideration be granted.

CONCLUSION

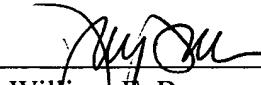
In view of the above remarks, Applicants respectfully request Reconsideration of the Decision on Petition. If any clarification to the above remarks is needed telephone the undersigned at the below-listed telephone number.

Respectfully submitted,

MERCHANT & GOULD P.C.

June 19, 2006

Date



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EXHIBIT A

U.S. Application Serial No. 10/519,166

Based on International Application No. PCT/FR03/01933

International Filing Date: 24 June 2003

Entitled: "Solid Pharmaceutical Composition Containing a Lipophilic Active Principle and Preparation Method Thereof"

Attorney Docket No: 70078.0009USWO



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ANCIEN CONSEIL JURIDIQUE

BERNARD ORES $\oplus\ominus$
INGÉNIEUR CHIMISTE ESCIL
LICENCEE ES-SCIENCES

MARIE-JOSÉ VIALLE-PRESLES $\oplus\ominus$
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MARC DOIREAU $\oplus\ominus$
INGÉNIEUR EFREI

PHILIPPE JACQUARD $\oplus\ominus$
INGÉNIEUR INPG

THIERRY SCHWARTZ $\oplus\ominus$
DOCTEUR-INGÉNIER EN PHYSIQUE

SOPHIE GOULARD $\oplus\ominus$
MÂTIÈRE ES-SCIENCES ANALYSES
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MICHEL BOLINCHES $\oplus\ominus$
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VÉRONIQUE MARCADI $\oplus\ominus$
INGÉNIEURE ÉCOLE CENTRALE PARIS
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HELINE LEBLOIS-PREHAUD $\oplus\ominus$
DOCTEUR EN MICROBIOLOGIE
DOCTEUR VÉTÉNAIRE

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DES DE DROIT DE LA PROP. INDUSTRIELLE

NATHALIE ROUSSET $\oplus\ominus$
MÂTIÈRE EN DROIT DES AFFAIRES

GENEVIEVE VU THANH $\oplus\ominus$
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FABRICE PIGEALIX
DES DROIT DU MSI

SERVICE ADMINISTRATIF

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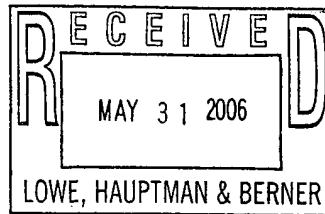
ANNIE LECUYER
RESPONSABLE ADMINISTRATIVE PI

DOCUMENTATION & INFORMATIQUE

FABRICE SAUSSEREAU
DEUST DROIT INFORMATIQUE
ET SYSTÈME D'INFORMATION

\oplus CONSEIL EN PROPRIÉTÉ INDUSTRIELLE
 \oplus MANDATAIRE EN BREVETS EUROPÉENS
 \oplus MANDATAIRE AGREE PRÈS L'OHMI
 \oplus DIPLÔMÉ(E) DU CEIP

S.A. au Capital de 360 000,00 €
380 823 179 R.C.S. Paris



DOCKETED BY: *[Signature]*
DUE DATE: _____

TELECOPY +
+ CONFIRMATION MAIL

LOWE, HAUPTMAN & BERNER, LLP
SUITE 300/310
1700 Diagonal Road
US-ALEXANDRIA VIRGINIA 22314
ETATS-UNIS D'AMERIQUE

Paris, May 26, 2006

US Patent Application No. 10/519,166 filed on June 24, 2003

In the name(s) of: CLL PHARMA

For: "Solid pharmaceutical composition containing a lipophilic active principle and preparation method thereof."

Invention: ABOU CHACRA-VERNET Marie-Line, ZAKARIAN Noël, TOSELLI Dominique, GIMET René, LARUELLE Claude

Priority(ies): FRANCE - No. 0207831 of June 25, 2002

Y/Ref.: 1169-032 O/Ref.: SG/LD - F106600010/US/PCT

Dear Sirs,

We thank you for transmitting the Decision on Petition from the USPTO.

We have reviewed this Decision and the reasons why items 3 and 4 of 37 C.R.F. 1.47(a) have not been satisfied and give you the following comments relating thereto.

In order to satisfy item 3 of the Decision, we must allege that "a complete copy of the application paper was presented to Mr Toselli". As you know, when preparing the Combined Declaration and power of Attorney for its execution by the inventor, we may attach the specification to this form, or complete the form with the mention of the US Serial number and filing date or with the PCT International Application number and filing date. The above case being issued from a PCT International Application, the form has been filled in with the International Application number and filing date but was not accompanied with a complete copy of the specification (what we assume to correspond to the application papers) as this is not necessary.

The Examiner also quote that "a refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application paper does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers". We inform you that Mr Toselli has been designated as inventor in eight different US Patent Applications as employee of the assignee CLL PHARMA and has executed the forms for all these Applications. He has also signed the power of Attorney for the filing of the International PCT Application from which is issued the US Patent Application in reference. Please further note that, in the second paragraph of our letter of March



14, 2005 (copy already provided to your Office with an English translation thereof) whereby we transmitted the forms to Mr Toselli, we explained him the nature of the documents and pointed out the invention concerned. He has also had different ways to identify the invention concerned i.e. by the title in the forms, the number of the PCT Application and the number of the priority Application. In the light of the above, we have no doubt that the inventor knew the nature of the Declaration and the Assignment forms, that he was able to identify the invention concerned and, without a response to our different letters, refused voluntarily to execute the forms.

In order to satisfy the item 4 of the Decision, we confirm that the last known address is the one used in our letter sent to Mr Toselli i.e. *21 boulevard Arcole, 31000 Toulouse, France*. We remind you that our different letters have been sent by registered mails and that we provided you with the executed notices of receipt. A last evidence of the correct address is the enclosed print of the web site of the French Post attesting that the last known address recorded is the one cited above.

We hope that the above arguments will allow you to obtain reconsideration on the merits of the previous petition and remain of course at your disposal for further information.

We remain,

Yours Faithfully,

A handwritten signature in black ink, appearing to read "S. Goulard".

S. GOULARD

A handwritten signature in black ink, appearing to read "B. ORES".

B. ORES

Encl. :as mentionned above

EXHIBIT B

U.S. Application Serial No. 10/519,166

Based on International Application No. PCT/FR03/01933

International Filing Date: 24 June 2003

Entitled: "Solid Pharmaceutical Composition Containing a Lipophilic
Active Principle and Preparation Method Thereof"

Attorney Docket No: 70078.0009USWO



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Votre requête : TOSELLI DOMINIQUE
TOULOUSE (HAUTE GARONNE)

Ville en Direct
plan, météo, trafic,
webcam, cinéma

Min : 15°C
Max : 21°C

> Réponses en orthographe exacte

1 réponse(s)

(liste 1-1)

dans la localité ...

Toselli Dominique

21 bd Arcole 31000 TOULOUSE | Plan | Vue aérienne | Itinéraire

A proximité 05 61 21 15 27

Fin

Demandez, c'est trouvé !

Nom toselli

Prénom dominique

Adresse

Localité toulouse

Département ou région 31000

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